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PLEASE REPLY TO SEVENOAKS OFFICE

30 January 2008

OUR REF: MRH/AME/P40657EP  
YOUR REF:

EPO - Munich  
28

01. Feb. 2008

Dear Sirs

Re: European Patent Application No. 04806258.2-2101  
Astex Therapeutics Limited  
Representative's former ref: AST20(EP)  
Representative's new ref: MRH/P40657EP

Responsibility for this application has been transferred to Elkington and Fife LLP. Accordingly, I should be most grateful if all further correspondence could be directed to me at the following address:

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Yours faithfully  
Elkington and Fife LLP



Dr Michael R. Hutchins



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Application No. 04 806 258.2 - 2101	Ref. AST20 (EP)	Date 14.12.2007
Applicant Astex Therapeutics Limited		

**Communication pursuant to Article 94(3) EPC**

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(2) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

**of 4 months**

from the notification of this communication, this period being computed in accordance with Rules 126(2) and 131(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (R. 50(1) EPC).

**Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Art. 94(4) EPC).**



Lauro, Paola  
Primary Examiner  
for the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)

The examination is being carried out on the following application documents:

**Description, Pages**

1-200 as originally filed

**Claims, Numbers**

1-32 received on 26.07.2006 with letter of 23.06.2006

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1. An International Preliminary Report on Patentability has already been drawn up for the present application in accordance with the PCT. The deficiencies mentioned in that report give rise to objections under the corresponding provisions of the EPC.
2. The report is incorporated in the present communication:

" *Reference is made to the following document:*

D1: WO 01/32653 A (CEPHALON, INC) 10 May 2001 (2001-05-10)

D2: JP 2000 016984 A2 (PFIZER INC., USA) 18 January 2000 (2000-01-18)

**Novelty**

*The compound disclosed in preparation 48 on page 173 of the translated Japanese document D2 falls within the definition of formula (I) as claimed in the current application. Novelty is not acknowledged re D2.*

**Inventive step**

*The problem underlying the present application appears to reside in the provision of pyrazole derivatives as protein kinase A and protein kinase B modulators and thus useful in treating abnormal cell growth in a mammal.*

*Since the structurally closest compounds, which are disclosed in D2 have a different activity, namely delta opioid antagonist activity, and the protein kinase modulators disclosed in D1 are remote in structure compared to the compounds of the present application, inventive step is acknowledged for the subject-matter considered to be novel.*

- *The "linker" group A needs a clearer definition in the claims.*
- *The possibility of substitutions on the rings (see e.g. E , R1) should be specified in the claims by introducing a list of suitable substituents "*
- 4. Additionally, the application fails to meet the requirements of the EPC in the following respects:
- 5. An amendment set of claims has been filed on 23.07.2006. As regards the amendments carried out in claims 1 to 17, the following is noted:
  - 5.1 Claim 11 contains an unallowable reference to the description (Rule 43(6) EPC).
  - 5.2 In claim 12, the definitions a) through d) do not represents alternatives, but only more specific meanings of the definition given under a), which contributes to increase the unclarity of the claim. The same applies to claim 21. Such claims should be revised.
  - 5.3 Expressions like "such as", "for example", "i.e." **used throughout the claims** in the present application are not considered to limit the scope of the claim (see Guidelines C-III, 4.9). If the applicant wishes to cover specifically the features following said expressions, dependent claims directed to the specific embodiments should be inserted. A limiting expression which would be accepted in a dependent claim would be "selected from".
- 6. The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant should clearly identify the

Datum  
Date 14.12.2007  
Date

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Sheet 3  
Feuille

Anmelde-Nr.:  
Application No.: 04 806 258.2  
Demande n°:

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amendments made, irrespective of whether they concern amendments by addition, replacement or deletion, and indicate the passages of the application as filed on which these amendments are based (see Guidelines E-II, 1).

If the applicant considers it appropriate, these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims.



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**EPO Customer Services**

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Date

06.09.06

Reference AST20 (EP)	Application No./Patent No. 04806258.2 - 2101 PCT/GB2004005464
Applicant/Proprietor Astex Therapeutics Limited, et al	

**Notification of European publication number and information on the application of Article 67(3) EPC**

The provisional protection under Article 67(1) and (2) EPC in the individual contracting states becomes effective only when the conditions referred to in Article 67(3) EPC have been fulfilled (for further details, see information brochure of the European Patent Office "National Law relating to the EPC" and additional information in the Official Journal of the European Patent Office).

A request has been made for extension of the patent to: AL BA HR LV MK YU  
See Official Journal 1-2/1994 for further information on provisional protection.

Pursuant to Article 158(1) EPC the publication under Article 21 PCT of an international application for which the European Patent Office is a designated Office takes the place of the publication of a European patent application.

The bibliographic data of the above-mentioned Euro-PCT application will be published on 04.10.06 in Section I.1 of the European Patent Bulletin. The European publication number is 1706385.

In all future communications to the European Patent Office, please quote the application number plus Directorate number.

Receiving Section





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Date  
09-08-2006

Reference <b>AST20 (EP)</b>	Application No./Patent No. <b>04806258.2 - 2101 PCT/GB2004005464</b>
Applicant/Proprietor <b>Astex Therapeutics Limited, et al</b>	

#### **Communication pursuant to Rules 109 and 110 EPC**

##### **(1) Amendment of application documents, especially the claims (R. 109 EPC)**

The above mentioned international (Euro-PCT) application has entered the European phase, or can do so, once the necessary conditions are fulfilled.

Under Articles 28, 41 PCT, Rules 52, 78 PCT and Rule 86(2) to (4) EPC, the applicant may amend the application documents after receiving the international search report.

**Whether or not he has already done so, he now has a further opportunity to file amended claims or other application documents within a non-extendable time limit of one month after notification of the present communication (R. 109 EPC).**

The claims applicable on expiry of the above time limit, i.e. those filed on entry into the European phase or in response to the present communication, will form the basis for the calculation of any claims fee to be paid (see page 2) and for any supplementary search to be carried out under Article 157(2) EPC (R. 109 EPC).



Date

Sheet 2

Application No. 04806258.2

**(2) Claims fees under Rule 110 EPC**

If the application documents on which the European grant procedure is to be based comprise more than ten claims, a claims fee shall be payable for the eleventh and each subsequent claim within the period provided for in Rule 107(1) EPC.

- ☐ Based on the application documents currently on file, all necessary claims fees have already been paid (or the documents do not comprise more than 10 claims).
- ☒ All necessary fees will be/have been debited automatically according to the automatic debit order.
- ☐ The claims fees due for the claims ..... to ..... were not paid within the above-mentioned period.

Any non-paid claims fee, either based on the current set of claims or on any amended claims to be filed pursuant to Rule 109 EPC (see page 1), may still be validly paid within a non-extendable period of grace of one month after notification of this communication.

If a payment is made for only some of the claims, it must be indicated for which claims it is intended. If a claims fee is not paid in due time, the claim concerned is deemed to be abandoned (R. 110(4) EPC).

If claims fees have already been paid, but on expiry of the above-mentioned time limit there is a new set of claims containing fewer fee-incurring claims than previously, the claims fees in excess of those due under Rule 110(2), 2nd sentence, EPC will be refunded (R. 110(3) EPC).

You are reminded that any supplementary search under Article 157(2) EPC will relate only to the last set of claims applicable on expiry of the above time limit AND will be confined to those fee-incurring claims for which fees have been paid in due time.

**The fee for the eleventh and each subsequent claim is EUR 45,00.**

Receiving Section

